

November 12, 1997

The Honorable Federico F. Peña  
Secretary of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1000

Dear Secretary Peña:

The Defense Nuclear Facilities Safety Board (Board) and its staff have been engaged in an ongoing process of reviewing and evaluating the content of standards (including Department of Energy (DOE) orders, regulations, and requirements) relating to safety in the design, construction, operation, and decommissioning of defense nuclear facilities, as required by section 312(a)(1) of the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2286a(a)(1)). This activity reached a peak workload about two years ago as DOE developed its new three-digit orders and the associated technical standards and guides. DOE and the Board devoted considerable resources to this process, and a lot was accomplished. The new orders were comprehensive and, when implemented properly, should provide adequate protection of health and safety.

Current DOE practice, consistent with Chapter VI of DOE M251.1-1, *Directives System Manual*, December 1, 1995, Change 1, is for each policy statement, order, manual, and guide to be reviewed every two years to determine whether cancellation, revision, or continuation is appropriate. The Board is beginning to see a buildup of revised orders, manuals, and guides related to safety, that DOE and the Board must devote considerable resources to examine. The Board is not persuaded that revision efforts are either necessary or justified. Even more important, all contractors have not yet finished evaluating and adopting the "new" three-digit orders and, hence, are faced with evaluating revisions to them. In its Recommendation 95-2, which DOE has accepted and has moved to implement, the Board recognized that the provisions of orders and standards cannot be regarded as mandatory until they are incorporated in contracts as requirements. Prior to that, these provisions are resources which contractors should use in structuring their safety management programs. Constantly revising adequate safety standards threatens to disrupt the process for incorporating these standards into contracts and implementing them in the field. The Board has consistently advised that DOE directives relevant to nuclear safety should be exempted from the mandatory two-year sunset process. Revised orders that result from this process may, if not controlled, result in a reduction in safety by drawing off scarce resources from more important safety-related work. Therefore, any change in safety, environmental, and health requirements for defense nuclear facilities must be adequately justified and demonstrated to result in a significant improvement in safety or environmental protection. This is preferable to a mechanical review and revision at fixed intervals.

The Board recognizes that there may well be justification for new or revised directives in the interest of improved safety, but wishes to discourage changes that do not result in a substantial benefit. The Board stands ready, as always, to devote resources for review and to advise DOE regarding the adequacy of DOE safety-related directives. With respect to existing directives that may be under modification by DOE a major aspect of the Board's review will be to ensure that the existing requirements and practices, which may be based on years of experience with unique hazards, are not modified without adequate justification and are not inadvertently lost. Provisions in DOE orders which in some cases may become requirements can, for example, be changed, relegated to another DOE standard, or canceled. To be effective, reviewers (both DOE and the Board's staff) need to know how and why a provision has been modified or otherwise dispositioned. One method used effectively in the past to convey this information has been a crosswalk -- a cross-reference that describes how each requirement in the modified order has been dispositioned. Typically the crosswalk identified the original requirement, described the changed requirement, and described the nature of, and basis for, the change.

The Board again suggests that directives related to safety be exempted from mandatory two-year sunset reviews. The Board also requests that DOE provide crosswalks, or their equivalent, that set forth technical justification and safety or environmental benefit when proposals are made to modify or develop directives affecting health and safety at DOE defense nuclear facilities, and drafts are distributed for review and comment. If you have questions on this, please let me know.

Sincerely,

John T. Conway  
Chairman

c: Mr. Mark B. Whitaker, Jr.